

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

LORIE J. MARSHALL and DEBRA RAMIREZ,
individually and on behalf of others similarly situated,

Plaintiffs,

v.

H&R BLOCK TAX SERVICES, INC.,

Defendant.

Case No. 08-591-MJR

**H&R BLOCK TAX SERVICES, INC.’S MOTION FOR LEAVE TO FILE
SUPPLEMENTAL AUTHORITY**

Defendant, H&R Block Tax Services, Inc. (“Block”), pursuant to Local Rule 7.1(g) and Federal Rule of Appellate Procedure 28(j), hereby submits its Motion for Leave to File Supplemental Authority, and in support thereof states:

1. Local Rule 7.1(g) provides in pertinent part: “If a party believes it is necessary to supplement its brief with new authority due to a change in the law or facts that occurred after the filing of its brief, the party must seek leave of court to file a supplemental brief. The supplemental authority shall be filed in accordance with the supplemental authority provisions found in Federal Rule of Appellate Procedure 28(j).”

2. Rule 28(j) of the Federal Rules of Appellate Procedure provides, in pertinent part: “If pertinent and significant authorities come to a party’s attention after the party’s brief has been filed – or after oral argument but before decision – a party may promptly advise the circuit clerk by letter, with a copy to all other parties, setting forth the citations. The letter must state the reasons for the supplemental citations, referring either to the page of the brief or to a point argued orally. The body of the letter must not exceed 350 words.”

3. In Block's Memorandum in Opposition to Plaintiffs' Motion for Class Certification, Block explained that Plaintiffs' Motion for Class Certification should be denied because, among other reasons, there was a lack of predominance concerning why an individual decided to buy the Peace of Mind extended warranty guarantee. *See* Doc. No. 57, p. 15-17. On July 30, 2010, the Seventh Circuit Court of Appeals issued its opinion in *Siegel v. Shell Oil Company*, ___ F.3d ___, 2010 WL 2977315 (7th Cir. July 30, 2010), affirming the district court's denial of class certification for strikingly similar reasons.

4. As in the case at bar, in *Siegel*, the plaintiff brought suit under the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2. The plaintiff alleged that the defendants' purported manipulation of the nation's supply of gasoline constituted an unfair practice resulting in artificially inflated gas prices. *Id.* at *1. The district court denied certification of an Illinois-only consumer class, finding that it would be required to make individual determinations concerning why a plaintiff bought gasoline from a particular supplier to assess whether the defendants' conduct proximately caused each plaintiff's injuries. The Seventh Circuit affirmed, reasoning that the plaintiff's inability to establish that each class member purchased gasoline for the same reason raised individualized factual questions and, thus, predominance was lacking. *Id.* at *3-4.

5. The body of Block's proposed supplementation letter contains fewer than 350 words. A copy of the letter is being submitted via e-mail to Judge Reagan's chambers.

WHEREFORE, Block respectfully requests that the Court grant leave to file the proposed supplemental authority.

H&R BLOCK TAX SERVICES, INC.

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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2010, I caused to be served a true and correct copy of the foregoing to be served via operation of the ECF system of the United States District Court, which will send copies of the foregoing to:

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